

**THE HARMAN FIRM, PC**

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November 11, 2013

**VIA ECF**

Hon. Alison J. Nathan  
United States District Court for the  
Southern District of New York  
40 Foley Square, Room 2102  
New York, New York 10007

**Re: *Messinger v. JPMorgan Chase Bank, N.A.,*  
13 CV 2444 (AJN)**

Dear Judge Nathan:

We represent Plaintiff Benjamin Messinger in the above-referenced employment discrimination matter. We write in response to Defendant's counsel's November 7, 2013 letter regarding its refusal to engage in discovery.

As detailed in Plaintiff's November 6, 2013 letter to the Court, Defendant, with no legal basis, refuses to engage in discovery. Defendant's November 7 letter merely confirms this. Moreover, not only did Defendant admit that their failure to comply with Rule 3.H. of this Court's Individual Practices in Civil Cases, but Defendant also failed to timely seek a stay of discovery pursuant to FED.R.CIV.P. 26(c). No stay is in place nor should one be.

Further, Defendant's November 7, 2013 letter still fails to cite any controlling authority for its position that discovery should be stayed in light of its Motion to Dismiss the Amended Complaint in Part. Nor can Defendant dispute the undue prejudice to Plaintiff caused by Defendant's continuing refusal to engage in discovery.

For these reasons, Plaintiff respectfully request that the Court issue an order requiring the Defendant to engage in a pretrial conference pursuant to FED.R.CIV.P. 26(f) by Friday, November 15, 2013, and to respond to Plaintiff's discovery requests in a timely manner or waive its right to seek discovery from the Plaintiff.

Hon. Allison J. Nathan  
November 11, 2013  
Page 2 of 2

We thank the Court for its time and attention to this matter.

Respectfully submitted,  
THE HARMAN FIRM, PC

s/  
Walker G. Harman, Jr. [WH-8044]

cc: Frederic L. Lieberman, Esq. (via ECF)